

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS WILLIAM KUZMISH,

Defendant-Appellant.

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UNPUBLISHED

February 4, 2000

No. 214188

Jackson Circuit Court

LC No. 98-087718-FH

Before: O'Connell, P.J., and Meter and T. G. Hicks\*, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

At some point between 9:00 a.m. and 4:00 p.m., a safe was stolen from the victim's home. The safe contained personal papers, legal documents, and a coin collection. Employees of H.R. Plating, defendant's former place of employment, testified that on the same day the break-in occurred, defendant came to the plant and used a torch to cut open a safe. He took a coin collection from the safe, and papers fell out of the safe that bore the victim's name and address. The evidence placed defendant at H.R. Plating, some forty to fifty miles from the victim's home, as early as 10:30 a.m. and as late as 1:30 p.m. A police officer found the safe in a ditch one-quarter mile from H.R. Plating. Charles Melton, who shared a jail cell with defendant, testified that defendant told him that he stole the safe from the victim's home, had someone cut it open, took \$1,500, and then threw the safe in the river.

The trial court found defendant guilty. The court concluded that, even disregarding Melton's testimony, the direct and circumstantial evidence was sufficient to support a finding that defendant broke into the victim's home and stole the safe. Defendant argues that the trial court's factual findings were clearly erroneous because the court wrongly concluded that the evidence demonstrated that defendant broke into the victim's home and stole the safe. Although defendant styles his appeal as a challenge to

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\* Circuit judge, sitting on the Court of Appeals by assignment.

the accuracy of the court's findings, defendant is, in essence, arguing that the evidence was insufficient to allow the trial court to find him guilty beyond a reasonable doubt.

When reviewing a challenge to the sufficiency of the evidence presented at trial, we view the evidence in the light most favorable to the prosecutor to determine whether it was sufficient to allow a rational trier of fact to conclude that the essential elements of the crime were proved beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992).

Defendant argues that his conviction of second-degree home invasion must be reversed because the evidence only demonstrated that he possessed the stolen property, not that he broke into the victim's home and stole the property. We disagree and affirm. Evidence of possession of stolen property is insufficient to support a conviction of home invasion, unless accompanied by other facts or circumstances indicating guilt. *People v Toole*, 227 Mich App 656, 660; 576 NW2d 441 (1998); *People v Rankin*, 52 Mich App 130, 132-134; 216 NW2d 620 (1974). Circumstantial evidence and reasonable inferences drawn from the evidence may be sufficient to prove the elements of a crime. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999).

In this case, additional evidence supported a finding that defendant committed the charged offense. The safe was taken from the victim's home sometime after 9:00 a.m. Direct evidence placed defendant in possession of the safe, at a location some forty to fifty miles from the victim's home, as early as 10:30 a.m. Moreover, the evidence showed that defendant told an employee of H.R. Plating that the safe came from Jackson. This evidence supported an inference that defendant committed the home invasion and stole the safe. In *Rankin, supra*, the defendant was in possession of the stolen property hours after the crime and only thirty miles away. Here, defendant was seen with the stolen property soon after the crime, given the distance from the scene. The evidence was sufficient to allow the trial court to conclude beyond a reasonable doubt that defendant was guilty of home invasion.

Affirmed.

/s/ Peter D. O'Connell

/s/ Patrick M. Meter

/s/ Timothy G. Hicks